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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,566	07/24/2003	George E. Wilson	4949-66289	3407
7590 08/11/2004			EXAMINER	
KLARQUIST SPARKMAN, LLP One World Trade Center Suite 1600 121 S.W. Salmon Street Portland, OR 97204			REIFSNYDER, DAVID A	
			ART UNIT	PAPER NUMBER
			1723	
DATE MAILED: 08/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/627,566

Applicant(s)

WILSON, GEORGE E.

Examiner

David A Reifsnnyder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-26 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-26 is/are rejected.
- 7) ☒ Claim(s) 34-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/24/2003</u> . | 6) <input type="checkbox"/> Other: _____   |

## **DETAILED ACTION**

### ***Continuing Data***

The continuing data in the related-applications section of the specification needs to be updated because Application No. 09/712,693, filed November 13, 2000 has issued as allowed U.S. Patent No.6,645,382 B1.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 19; the two recitations of "the duct" lack antecedent basis

Regarding claims 23-25; the recitation of "the duct" in claims 23-25 lacks antecedent basis.

### ***Claim Objections***

Claims 34-36 are objected to because of the following informalities: The recitation on line 8 of claim 34, of; "constant over a length of a second section; and" is grammatically incorrect. To correct claim 34 the change "constant over a length of a second section; and" to ---constant over a length of a second section;---

Correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider.

Regarding claims 18-25; Schneider discloses a method of conveying influent to a head cell having multiple trays oriented in a vertical direction; comprising: providing an influent source at a level above the head cell; channeling influent from the influent source through ducts, the ducts having portions of changing cross-sectional area; changing the velocity of the influent by channeling the influent through the portions of the ducts having changing cross-sectional area; and separating the influent into multiple flows and conveying the multiple flows to the respective multiple trays. (see figs 1 and 2)

Regarding claim 26; Schneider discloses a method of conveying influent to a treatment apparatus; comprising: providing an influent source at a level above the treatment apparatus; conveying the influent with a duct along a flow path from the influent source to the treatment apparatus; and along the flow path distributing the influent into multiple independent flows at different levels below the source. (see figs 1 and 2)

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Claim 18-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Vane.

Regarding claims 18-25; Vane discloses a method of conveying influent to a head cell having multiple trays oriented in a vertical direction; comprising: providing an influent source at a level above the head cell; channeling influent from the influent source through ducts (15-18), the ducts having different cross-sectional areas; changing the velocity of the influent by channeling the influent through the duct; and separating the influent into multiple flows and conveying the multiple flows to the respective multiple trays. (see the figure)

Regarding claim 26; Vane discloses a method of conveying influent to a treatment apparatus; comprising: providing an influent source at a level above the treatment apparatus; conveying the influent with a duct along a flow path from the influent source to the treatment apparatus; and along the flow path distributing the influent into multiple independent flows at different levels below the source. (see the figure)

#### ***Allowable Subject Matter***

Claims 34-36 are allowed over the prior art of record but must be corrected to overcome the above objection to claims 34-36 .

The main reason for the allowance of claims 34-36 is that the prior art of record fails to describe or fairly suggest the instantly claimed method of conveying influent to a head cell with an entry duct, the method comprising:

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providing a first section of the duct adapted to receive an entering open channel flow of influent at a first elevation;

providing a second section of the duct positioned downstream of and sloping downwardly from the first section, the second section having a second section cross sectional area in a plane normal to a direction of flow in the second section that remains substantially constant over a length of the second section;

**providing a third section positioned downstream of the second section and terminating in multiple nozzles**, the nozzles having a closed cross-section and being arranged at different elevations lower than the first elevation, **the nozzles having a total cross sectional area substantially equal to the second section cross sectional area; and**

**distributing a flow received from the first and second sections through the multiple nozzles of the third section as full-pipe flow.**

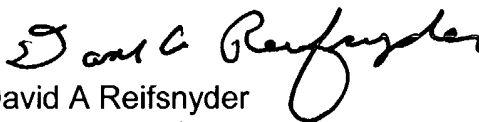
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Reifsnyder whose telephone number is (571) 271-1145. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda M Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David A Reifsnyder  
Primary Examiner  
Art Unit 1723

DAR